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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,587	04/09/2004	William S. Shadrach III	21842.NP	1897

7590 06/24/2005

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EXAMINER

LAMB, BRENDA A

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,587

Applicant(s)

SHADRACH, WILLIAM S.

Examiner

Brenda A. Lamb

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/28/05, 5/16/05, 6/14/04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 22-29 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/16/05 & 6/14/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Applicant's election of Group I in Paper of 2/28/2005 is acknowledged, Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP 818.03(a))

Claims 11-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation in claim 11 that the enclosure has at least two configurations, wherein the configurations include: (i) an upright configuration, in which a longitudinal axis of the enclosure is substantially vertical; and (ii) a slanted configuration, in which the longitudinal axis of the enclosure is slanted with respect to vertical is confusing since it infers that the enclosure can simultaneous have the at least two configurations. However, it is clear from the specification at paragraph 0040-0042 that applicant does not intend to claim the enclosure has simultaneously the least two configurations rather the enclosure can be exhibit the at least two configurations one at a given time.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thorsbakken.

Thorsbakken teaches the design of a portable dispenser configured to dispense towels selectively treated with a fluid comprising: a compartment configured to contain at least one dispensable towel therein; a removable cover, disposable on the compartment to form a partial enclosure with the compartment; a fluid reservoir; a fluid applicator, in fluid communication with the reservoir and being selectively operable by a user of the dispenser to apply the fluid to the dispensable towel. Thorsbakken teaches the fluid applicator and reservoir cooperatively defining a sealed unit to contain the fluid within the cover via one-way valves obviously whether the dispenser is oriented in the upright configuration or where the longitudinal axis of the enclosure is slanted with respect to vertical such as when the lid portion is pivoted downwardly to cut the towels. For examination purposes, the examiner has interpreted the recitation the enclosure having at least two configurations, including: (i) an upright configuration, in which a longitudinal axis of the enclosure is vertical; and (ii) a slanted configuration, in which the longitudinal axis of the enclosure is slanted with respect to vertical as being the dispenser can have either an upright configuration or a slanted configuration one at a given time and the Thorsbakken dispenser can dispense tissue in either configuration as taught by Thorsbakken and depicted in Figure 4 in which the cover is movable with respect to the compartment. Thus claim 11 is obvious over Thorsbakken.

Claims 12-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art fails to teach or suggest a portable dispenser configured to dispense towels selectively treated with a fluid, comprising:

a compartment, configured to contain at least one dispensable towel therein;
a removable cover, disposable on the compartment to form an enclosure with the compartment; a fluid reservoir; a fluid applicator, in fluid communication with the reservoir and being selectively operable by a user of the dispenser to apply the fluid to the dispensable towel; the enclosure capable of being used in at least two configurations one at a given time, wherein the configurations include:

- (i) an upright configuration, in which a longitudinal axis of the enclosure is substantially vertical; and
- (ii) a slanted configuration, in which the longitudinal axis of the enclosure is slanted with respect to vertical; the fluid applicator and reservoir cooperatively defining a sealed unit to contain the fluid within the cover when the dispenser is oriented in regardless whether the enclosure is positioned in the upright configuration or the slanted configuration, further comprising a towel dispensing conduit extending through the cover to a top opening of the cover, the conduit defining a path through which the dispensable towel is extracted from the compartment and dispensed from the top opening of the cover.

Claims 1-10 are allowed.

The prior art fails to teach or suggest a dispenser configured to dispense towels selectively treated with a fluid comprising:

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A compartment having an open upper end and being configured to contain at least one dispensable towel therein; a removable cover, disposable over the open upper end of the compartment to form an enclosure with the compartment; a towel dispensing conduit, extending through the cover to a top opening of the cover, the conduit defining a path through which the dispensable towel is extracted from the compartment and dispensed from the top opening of the cover; and a fluid application assembly, associated with the removable cover, the fluid application assembly comprising a fluid reservoir oriented over the compartment when the cover is disposed on the compartment, and being configured to receive and store the fluid therein; a fluid applicator in fluid communication with the reservoir and being selectively operable by a user to selectively apply the fluid to the dispensable towel as the towel is dispensed from the dispenser.

Any inquiry concerning this communication should be directed to Brenda A. Lamb at telephone number (571) 272-1231. The examiner can normally be reached on Monday and Wednesday thru Friday with alternate Tuesdays off.

B.A. Lamb/dh
June 1, 2005

Brenda A. Lamb
BRENDA A. LAMB
PRIMARY EXAMINER